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C O N F I D E N T I A L LILONGWE 000401

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STATE FOR AF/S GABRIELLE MALLORY
STATE FOR INR/AA

E.O. 12958: DECL: 05/10/2011

TAGS: [PGOV](#) [KDEM](#) [MI](#)

SUBJECT: MINISTER OF JUSTICE DEFENDS CASE AGAINST VICE
PRESIDENT

REF: A. 06LILONGWE376

[B. 06LILONGWE365](#)

[C. 05LILONGWE338](#)

Classified By: Political Officer Tyler Sparks for reasons 1.4 B and D.

[1. \(C\)](#) In a meeting May 10, Malawi's Minister of Justice Henry Phoya assured Ambassador Eastham that the Vice-President's arrest on treason charges was legitimate and the case against him substantial. Challenged on the arrest and subsequent release without charge of the VP's alleged co-conspirators, as well as the recent arrest of three journalists, Phoya uncomfortably confided those arrests were ordered by "overzealous" members of the administration. Phoya said both he and President Mutharika were surprised by the release of the VP's alleged accomplices, whom he numbered at eight, after they had both been assured that there was hard evidence linking them to the VP's case.

[2. \(C\)](#) The ambassador met with Phoya on May 10 with two objectives, to offer further efforts to support the pending anti-money laundering bill and to discuss the recent arrest cases. After the conversation turned to the VP's case Phoya told the ambassador that "while the government regretted the timing of the VP's arrest, the case was against him was serious," and had to be acted upon immediately, given that there might have been other unidentified conspirators still threatening the President.

[3. \(C\)](#) Asked about the arrest of the other alleged UDF conspirators, arrested and released unconditionally three days later, Phoya was visibly uncomfortable, saying that some members of the administration had been overzealous and had misused the machinery of the state in that case. When pressed on the matter Phoya hinted that Attorney General Ralph Kasambara was behind both the arrests of the alleged accomplices and that of three journalists arrested for writing a story about Kasambara and a stolen laptop (septel).

[4. \(C\)](#) The Ambassador told Phoya that the recent visit to Malawi by Zimbabwean President Robert Mugabe had provided an opportunity for extensive comparisons between events in Zimbabwe and those in Malawi, and the comparison was not at all favorable to Malawi. He noted in particular that it seemed not to be a coincidence that the alleged co-conspirators were arrested the day prior to Mugabe's arrival and released after he had left. What was the point, he said, in putting out the word that these people were possibly involved in a capital case? The ambassador asked whether an apology or acknowledgment of error on the part of the government had been considered. Phoya responded that

this option had been considered and rejected, because there would be consequences (comment: probably lawsuits from the arrestees) if the government said it had made a mistake. Phoya then said that the Mutharika administration does not want to go back to the situation before 1994 (i.e. the Banda dictatorship), saying that since then, "we have built a strong history of rule of law, and we can't let someone tear that down. As long as I sit in this chair I can't let that happen."

¶5. (C) Comment: Phoya clearly was uncomfortable discussing the internal issues of Mutharika's administration, yet he also came across as forthright and honest. His assertion that the evidence against the VP is real while admitting that the other arrests were a mistake lends some credence to his claims. He left directly after the meeting to drive three hours to a meeting with the President in Zomba, after which he promised to call the ambassador with feedback, implying that these cases were on his agenda with Mutharika this afternoon.

EASTHAM